

REMARKS/ARGUMENTS

The following remarks are submitted in response to the Final Office Action mailed May 29, 2008. Claims 1-65 remain pending in the Application. Claims 1-65 have been rejected. In this response, claims 28, 37, 38, and 47 have been amended, and 57-65 have been canceled. Favorable reconsideration in view of the following amendments and comments is respectfully requested.

Claim Rejections – 35 U.S.C. § 112

On page 2 of the Office Action, the Examiner rejected claims 1-13 and 28-65 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1-13, these claims have been canceled without prejudice, rendering the rejection moot. Regarding claims 28, 37, 47, and 57 and their dependents, the Examiner asserts that these claims refer to the catheter in its inserted position, when it may have been deformed, and that the configuration as claimed is not possible to ascertain. Applicant has amended these independent claims, except claim 57, to recite an entry section means, and believes that these claims (as well as their dependents) are now in condition for allowance. Claim 57 and those claims depend therefrom have been canceled without prejudice.

Claim Rejections – 35 U.S.C. § 103

On page 3 of the Office Action, the Examiner rejected claims 1-65 under 35 U.S.C. §103(a) as being obvious in view of Voda (U.S. Patent Publication No. 2002/0103474). Applicant respectfully traverses this rejection.

“All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). (MPEP 2143.03). On page 4 of the Office Action, it appears as though the Examiner admits that Voda ‘474 fails to disclose each and every element of the claims. However, it is still asserted that the claims are obvious in view of Voda ‘474. The Office Action appears to assert that the angle $\alpha(f)$, while outside the range of Voda ‘474, would have been within the scope of reasonable experimentation. The Applicant respectfully disagrees in that it is not clear why one would have pursued such experimentation.

“If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.” *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). (MPEP 2143.01). Applicant points to paragraph 0032 of the specification which reads, in part, “This deviation to the left allows distal tip 22 to follow (rather than lead if there was a deviation to the right) when catheter 2 is torqued in the customary clockwise direction...Having the distal tip 22 follow may minimize gouging and damage caused by rotating and may reduce the amount of torque (force) necessary to rotate catheter 2 (even though catheter 2 must be twisted a greater number of degrees as compared to a deviation to the right).”

While there may be some similarity between the ranges of Voda ‘474 and the current claims, when the claimed ranges are applied there is a very distinct physical and functional difference. For example, an analogy can be made to a person walking with a shovel. If the person “leads” with the shovel, the tip will dig into the ground in front of them. If the shovel “follows” the person, dragging it behind them, it will essentially slide along the surface, minimizing damage to the ground.

The Applicant submits that, the changes the Examiner proposes would be found by experimentation, will change the principle of operation of the Voda ‘474 catheter because the claimed distal tip “follows” rather than “leads” the catheter as it is inserted into the ostium. The claimed invention is physically and functionally different from Voda ‘474. Moreover, the changes to the ranges are not simply refinement or optimization of the existing prior art ranges, but a new set of ranges providing improvement over the prior art ranges. Therefore, the claimed angles would not have been obvious because there was no reasonable expectation that the claimed device would function in the same manner as the existing device.

For at least these reasons, Applicant asserts that the independent claims 26, 37 and 47 are allowable over this reference, and respectfully requests that the rejection be withdrawn. And, further that those claims that depend therefrom are likewise allowable as they contain additional elements.

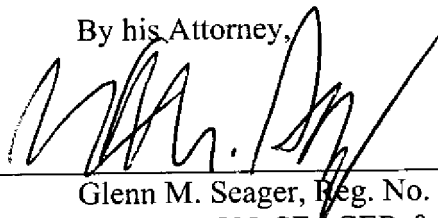
Reexamination and reconsideration are respectfully requested. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at 612-677-9050.

Respectfully submitted,

Jan K. Voda

By his Attorney,

Date: July 29, 2008

A handwritten signature in black ink, appearing to read "Glenn M. Seager", written over a horizontal line.

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